

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

IN RE:	)	
	)	Chapter 11
W.R. GRACE & CO., <i>et al.</i> ,	)	
	)	Case No. 01-01139 (JKF)
	)	Jointly Administered
	)	
Debtors.	)	Related to Docket No. 22351
	)	Hrg. Date: September 8-11, 2009
	)	Filing Deadline: July 20, 2009
	)	

PRE-TRIAL SUBMISSIONS OF THE EDWARDS JUDGMENT CLAIMANTS IN COMPLIANCE  
WITH THE ORDER REGARDING PHASE II PRE-TRIAL PROCEEDINGS (DOCKET NO. 22351)

Aaron C. Edwards, James T. Beam, Edward E. Storey, John M. Thomas, and Sheila Martin<sup>1</sup> (collectively, the “Edwards Judgment Claimants”)<sup>2</sup> hereby file their Pre-Trial Submissions In Compliance With The Order Regarding Phase II Pre-Trial Proceedings (Docket No. 22351) (the “Pre-Trial Submissions”) in furtherance of their prosecution of the Objection of the Edwards Judgment Claimants to the First Amended Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code of W.R. Grace & Co., et al., the Official Committee of Asbestos Personal Injury Claimants, the Asbestos PI Future Claimants’ Representative, and the Official

<sup>1</sup> Individually and as Administratrix of the Estate of Jessie J. Williamson, Deceased, and as Representative of the Wrongful Death Beneficiaries.

<sup>2</sup> The Edwards Judgment Claimants are represented by the law firm of Reaud Morgan & Quinn, Inc. and hold judgment claims against W.R. Grace (“Grace” or “Debtor”). The Edwards Judgment Claimants were awarded damages against W.R. Grace in the matter of Aaron C. Edwards, et al. v.s Pittsburgh Corning, et al., Cause No. B-150,896-J in the 60<sup>th</sup> District Court of Jefferson County, Texas.

Committee of Equity Security Holders (Docket No. 21773) (the “Edwards Judgment Claimants’ Objection”).

## I STATEMENT OF ISSUES

The Edwards Judgment Claimants intend to address the following issues at the Confirmation Hearing:

- The ambiguity, internal inconsistency, and confusing language in the TDP provision defining Pre-Petition Liquidated Claims that purports to exclude judgment claims secured by supersedeas bonds (in Section 5.2(a) of the TDP, the phrase “provided there is no supersedeas bond associated with such verdict or judgment”).
- The appropriateness of this provision in light of its absence from numerous TDPs approved by this Court in other asbestos bankruptcy cases that clearly form the basis for the Pre-Petition Liquidated Claims language.
- The impermissible discrimination against the claims of the Edwards Judgment Claimants versus other claims liquidated pre-petition if the TDP language is read as excluding pre-petition liquidated claims that are secured by a supersedeas bond from the definition of Pre-Petition Liquidated Claims.

## II LIST OF WITNESSES

The issues raised by the Edwards Judgment Claimants’ Objection (and as set forth above) are entirely legal in nature and the Edwards Judgment Claimants do not intend to present any witnesses at the Confirmation Hearing. This having been said, the Edwards Judgment Claimants reserve the right to call or examine any witness designated or called by the Debtor or any other party, and to call rebuttal witnesses.

## III LIST OF EXHIBITS

The Edwards Judgment Claimants may introduce the following exhibits at the Confirmation Hearing:

1. A true and correct copy of the Judgment entered into against W.R. Grace & Co. (*inter alia*) by the 60<sup>th</sup> District Court of Jefferson County, Texas on March 28, 2000 in the matter of *Aaron C. Edwards, et al. v.s Pittsburgh Corning, et al.*, Cause No. B-150,896-J (the "Judgment") and filed with this Court as Exhibit A to the Edwards Judgment Claimants' Objection.
2. A true and correct copy of the Supersedeas Bond posted in respect of the Judgment by W.R. Grace & Co. on June 30, 2000 and filed with this Court as Exhibit B to the Edwards Judgment Claimants' Objection.
3. A true and correct copy of the TDP filed in the matter of *Pittsburgh Corning* (Western Pennsylvania Bankruptcy Court Case No. 00-22876).
4. A true and correct copy of the TDP filed in the matter of *Armstrong World Industries* (Delaware Bankruptcy Court Case No 00-4471).
5. A true and correct copy of the TDP filed in the matter of *Federal Mogul* (Delaware Bankruptcy Court Case No. 01-10578).
6. A true and correct copy of the TDP filed in the matter of *Owens Corning* (Delaware Bankruptcy Court Case No. 00-03837).
7. A true and correct copy of the TDP filed in the matter of *USG Corporation* (Delaware Bankruptcy Court Case No. 01-2094).
8. Any document necessary for rebuttal purposes.
9. The Edwards Judgment Claimants reserve the right to request the Court to take judicial notice of any pleading, order or other document filed of record in this case as the court deems appropriate.

Dated: July 20, 2009

SMITH, KATZENSTEIN &  
FURLOW LLP

  
/s/ Kathleen M. Miller

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